



Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San José, California 95110-1795

Hearing Date/Agenda Number:
P.C. 4/26/04 Item: 4a

File Number:
GP03-02-04

Council District and SNI Area:
2 - N/A

Major Thoroughfares Map Number:
130

Assessor's Parcel Number(s):
678-08-005

Project Manager: Lesley Xavier

GENERAL PLAN REPORT

2004 Spring Hearing

PROJECT DESCRIPTION:

General Plan amendment request to change the Land Use/Transportation Diagram designation from Industrial Park to Industrial Park with Mixed Industrial Overlay.

LOCATION: Southerly side of Piercy Road, approximately 300 feet easterly of Hellyer Avenue. (474 and 478 Piercy Road)

ACREAGE: 9.0

APPLICANT/OWNER:

Family Community Church/Barry DiRaimondo

GENERAL PLAN LAND USE / TRANSPORTATION DIAGRAM DESIGNATION:

Existing Designation: Industrial Park

Proposed Designation: Industrial Park with Mixed Industrial Overlay

EXISTING ZONING DISTRICT(S): IP - Industrial Park

SURROUNDING LAND USES AND GENERAL PLAN DESIGNATION(S):

North: One single-family residence - Industrial Park

South: Vacant land – Industrial Park

East: Three single-family residences – Rural Residential (0.2 DU/AC)

West: Vacant land – Industrial Park

ENVIRONMENTAL REVIEW STATUS:

Mitigated Negative Declaration pending adoption on April 26, 2004

PLANNING STAFF RECOMMENDATION:

No Change to the General Plan.

Approved by:

Date:

PLANNING COMMISSION RECOMMENDATION:

CITY COUNCIL ACTION:

CITY DEPARTMENT AND PUBLIC AGENCY COMMENTS RECEIVED:

- Department of Transportation (DOT) – The proposed land use change will not have a long-term traffic impact.

GENERAL CORRESPONDENCE:

- Letter from the Silicon Valley Manufacturing Group (attached)
- Letter from Catherine Wiehe who lives adjacent to the project at 485 Piercy Road (attached)
- Letter from Huy X. Ngo who lives adjacent to the project at 475 Piercy Road (attached)
- Letter from Anne and Bader Kudsi who live adjacent to the project at 415 Piercy Road (attached)
- Letter from Pauline Seebach who lives adjacent to the project at 443 Piercy Road (attached)

ANALYSIS AND RECOMMENDATIONS:

PROJECT DESCRIPTION

This is a privately-initiated General Plan amendment request to change the Land Use/Transportation Diagram on a 9-acre site located on the southerly side of Piercy Road, approximately 300 feet easterly of Hellyer Avenue (474 and 478 Piercy Road) from Industrial Park to Industrial Park with Mixed Industrial Overlay.

The subject site's current General Plan land use designation of Industrial Park is an exclusive industrial designation intended for a wide variety of industrial uses such as research and development, manufacturing, assembly, testing, and offices. Areas identified exclusively for Industrial Park uses may contain a very limited amount of supportive and compatible commercial uses, when those uses are of a scale and design providing support only to the needs of businesses and their employees in the immediate industrial area.

The proposed addition of the Mixed Industrial Overlay to the Industrial Park land use designation would allow for commercial or public/quasi-public uses on the site. Examples of such non-industrial uses include, but are not limited to, primary or secondary schools, hotels and motels, assembly uses including religious assembly, free standing daycare centers, big box retailers, large gymnasiums, sports or arts instruction facilities, and hospitals.

The applicants, Family Christian Church (FCC), have indicated their intent to utilize the property and existing buildings for religious assembly and associated uses. Although FCC is the applicant, the addition of the Mixed Industrial Overlay remains with the land, irrespective of the ownership of the property. Therefore, this report analyzes the range of potential land uses that would be permitted by the Mixed Industrial Overlay designation and not only the intended use proposed by the applicants.

BACKGROUND

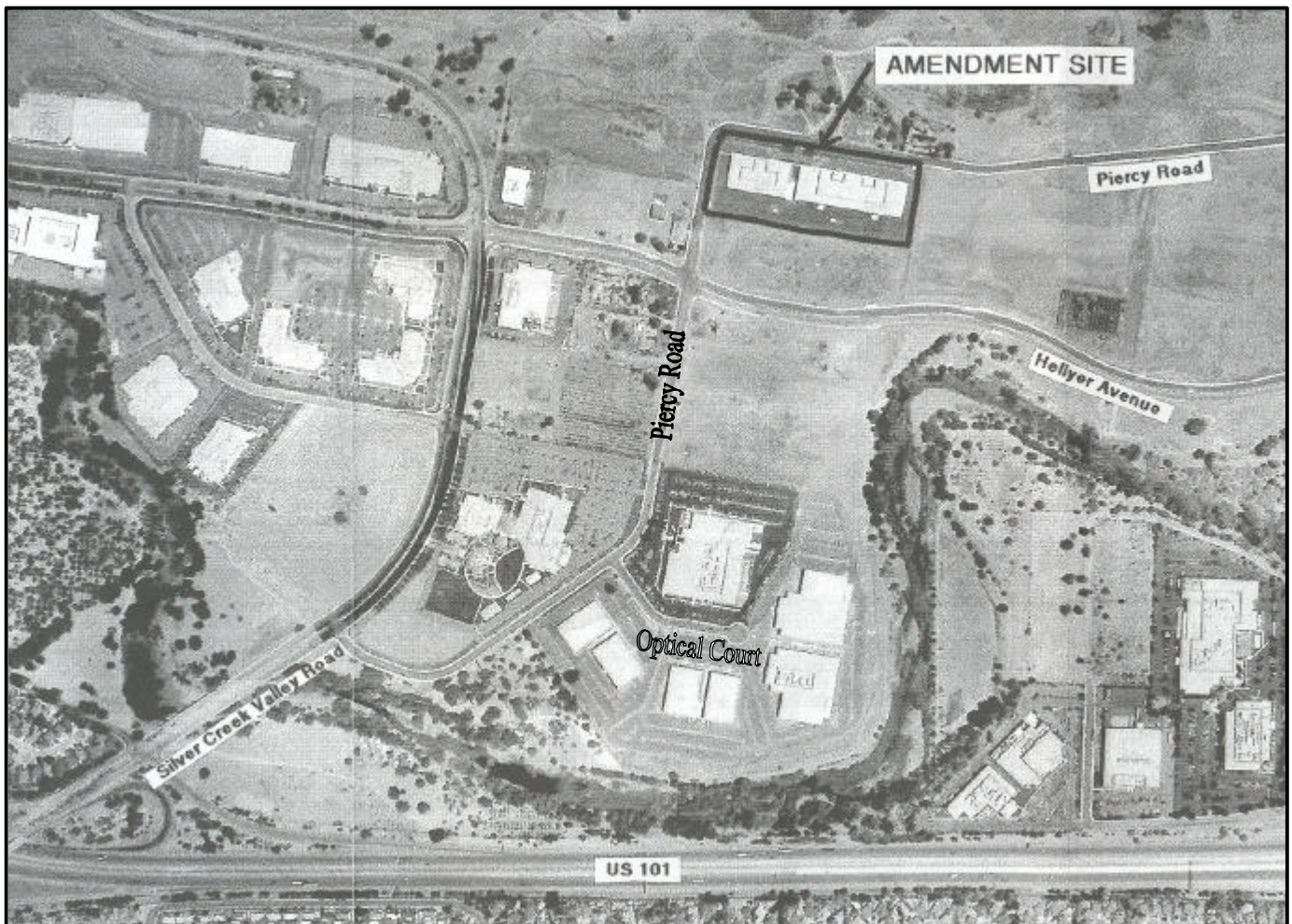
Mixed Industrial Overlay

The Mixed Industrial Overlay was added to the General Plan in 1995 and was intended to provide greater land use flexibility on certain industrially designated sites throughout the City. The Overlay was also intended to identify areas in which certain types of non-industrial uses may be appropriate. The definition

of Mixed Industrial Overlay states that the proximity of areas established exclusively for industrial uses should be considered in the application of this overlay to minimize any restrictions on the operations of tenants in the exclusively industrial areas. New uses within the Overlay area should be considered secondary when land use compatibility issues occur between existing or planned users of hazardous materials and sensitive receptors.

Site and Surrounding Uses

The site is currently developed with two shell office/industrial buildings, totaling 209,000 square feet and surface parking. Existing uses surrounding the site include one single-family residence and vacant land to the north, three single-family residences to the east, and vacant land to the south and to the west. The site is surrounded on three sides by the Industrial Park General Plan land use designation.



Edenvale Redevelopment Project Area

The amendment site is located within the Edenvale Redevelopment Project Area. This 2,300-acre Redevelopment Area was established in 1976. The Edenvale Redevelopment Area was created to preserve the long-term industrial and economic potential of the area, as well as to promote a reverse commute by placing an employment center in close proximity to the predominantly residential southern part of the City. The Edenvale Redevelopment Area is home to over 290 technology companies employing over 15,000 residents of San Jose and Silicon Valley. A total of 12 million square feet of built

R&D, office and manufacturing space house companies such as Northrup Grumman, Soletron, Electroglas, Western Digital, Intel, Agile Software, and IBM and Hitachi Global Data Storage Systems.

The Edenvale Redevelopment Area comprises 1,100 acres on the west side of Highway 101, now identified as the Edenvale 1 subarea, and 1,200 acres on the east side of Highway 101, known as the Edenvale 2 subarea (see map on following page). Additional information describing the economic significance of the Edenvale Redevelopment Area is provided below.

ANALYSIS

Citywide Industrial Park Land Inventory

The City's total inventory of land with the Industrial Park designation is approximately 5,673 acres. Of this, 777 acres currently contain the Mixed Industrial Overlay designation. This includes recent additions of the Mixed Industrial Overlay designation to two sites totaling 29 acres in the Oakland Road/Hostetter Road area. Typical uses of lands with the Mixed Industrial Overlay designation throughout the City include, but are not limited to, retail and service commercial, government offices, hotels and motels, churches, large gymnasiums and health facilities and medical facilities.

The Edenvale Redevelopment Area (i.e., Edenvale 1 and 2 subareas combined) presently contains 235 acres of land with the Mixed Industrial Overlay designation (approximately 10% of the total area). The Edenvale 1 subarea contains 148 acres, all of which is developed. The uses of this area include Research and Development, hotels, the Department of Motor Vehicles and a Veterans Administration clinic. One project that has received zoning approval in the Mixed Industrial Overlay is the proposed Lowes Home Improvement Center on approximately 18.75 acres located at near the intersection of Cottle Avenue and Blossom Hill Road. The Edenvale 2 subarea includes 87 acres presently designated with the Mixed Industrial Overlay, located adjacent to Highway 101 at both the Silver Creek Valley Road (12 acres) and Silicon Valley Boulevard (75 acres) interchanges. Uses located in the vicinity of Silicon Valley Boulevard include Research and Development, warehouse and distribution, a church and a hotel. At the Silver Creek Valley Road location, the area with the Mixed Industrial Overlay designation is currently vacant and has an approved Planned Development Zoning allowing a 197-room hotel, a 64,000 square foot office building, a 70,000 square foot sports club and a two-story parking structure.

Evaluation of Industrial Land Conversions

Although the subject amendment is not a conversion to residential use, the application of the Mixed Industrial Overlay could facilitate retail, assembly or other non-industrial uses on the site that may permanently remove the site from the base of Industrial Park land. For this reason, the proposed amendment is evaluated as a possible conversion.

With the downturn in the economy, there are many vacant or underutilized industrial sites in San Jose. Staff has received almost twenty General Plan amendments in the past year proposing the conversion of approximately 600 acres of industrial land to residential or commercial uses. As a result, the "Framework, as a Guideline, for Evaluating Proposed Conversions of Employment Lands to Other Uses" (Framework) was created and recently approved by the City Council. The Framework first divides the City's inventory of industrial areas into three categories: 1) those to promote or facilitate conversion, 2) those to consider conversion under certain circumstances, and 3) those to preserve for industrial uses. The

Edenvale 2 subarea falls in the third category, industrial areas to be protected from conversion. In this category of the Framework, the City Council added that conversions may be considered if the proposal would accomplish any of the following:

- Complete a transition to existing neighborhoods within or adjacent to the subarea;
- Buffer and provide uniformity to existing neighborhoods within or adjacent to the subarea;
- Further the City's smart growth policies;
- Aid in revitalizing declining neighborhoods within or adjacent to the subarea.

The proposed amendment does not meet any of these points. The amendment site is located in an exclusively Industrial Park area. The addition of the Mixed Industrial Overlay does not complete a transition to, or buffer or provide uniformity to an existing neighborhood, but rather would disrupt the uniformity and consistency of the Industrial Park uses in the larger surrounding area. The City's smart growth policies encourage managed growth, fostering economic and housing development and open space preservation. This proposal does not support these policies and, to the contrary, could deter future economic development of surrounding industrial properties. Finally, the proposed amendment does not aid in revitalizing a declining neighborhood. To the contrary, introduction of non-industrial uses in to the exclusively industrial park area could stifle future industrial development of nearby industrial properties, thereby impacting the ability to continue to attract, retain and expand industrial park uses in the area.

The Framework also identifies key criteria that need to be evaluated when considering conversion of employment lands. The criteria assess a range of factors including:

1. Economic contribution of the subarea.
2. Consistency with City Policies and Strategies.
3. Fulfilling the City's retail needs.
4. Adequacy of major street access.
5. Potential to influence/encourage conversion of adjoining properties.
6. Potential negative impact to other planned commercial development areas.
7. Adequacy of transit, bicycle, pedestrian facilities.
8. Incorporation of mixed use development.
9. Potential environmental impacts and mitigation measures.
10. Net fiscal impact on the City of using this parcel for retail instead of the current use.

Staff believes the proposed amendment on the subject site raises serious concerns with each of these issue areas, as more fully described in the following analysis.

1. Economic contribution of the subarea.

The Edenvale Redevelopment Area is identified in the "Towards the Future" report as the Edenvale 1 subarea (west of Highway 101) and Edenvale 2 subarea (east of Highway 101). The report describes these areas as two of the five subareas in the Driving Industries category. These are areas that have a high proportion of Driving Industries and significant amounts of the remaining vacant land planned for industrial park uses in the City. The Edenvale 2 subarea contains approximately 170 acres of vacant land that can generate approximately 2.6 million square feet of industrial space to house 7,700 new job opportunities for the residents of San Jose. This area is master-planned with infrastructure in place ready to accommodate and respond to the location needs of Driving Industries and start-up companies immediately. Investments by the Redevelopment Agency of over \$90 million have funded infrastructure improvements to retain and attract industrial uses in Edenvale. Companies like Clinimetrics, Stryker

Endoscopy, Lynux Works, Northrup Grumman and Ionics are thriving in an environment that the City has, for over 15 years, marketed as Silicon Valley South.

A Master Environmental Impact Report and Area Development Policy were certified by the City Council in June, 2000 allowing the build-out of Edenvale for R&D and Driving Industry purposes. The Redevelopment Agency Board recently authorized the creation of the Bioscience Incubator and Innovation Center located in a 37,000 square foot facility on Optical Court, southerly of Piercy Road. This center is expected to be open in September, 2004 (see map). It is the City and the Agency's intention to promote this area of Edenvale as a location for bioscience expansions of firms from the incubator and for established firms that may be attracted to Edenvale.

2. Consistency with City Policies and Strategies.

The proposed addition of the Mixed Industrial Overlay on this site is not consistent with the Goals and Policies of the General Plan, as follows:

Industrial Land Use Policy No. 3 states that the City should monitor the absorption and availability of industrial land to ensure a balanced supply of available land for all sectors. The proposed addition of the Mixed Industrial Overlay would decrease the amount of land designated exclusively for Industrial Park uses. The conversion of the amendment site to non-industrial uses would result in the loss of 209,000 square feet of industrial space that could potentially house 620 R&D and office jobs.

Industrial Land Use Policy No. 11 states that new land uses that may restrict development of land reserved exclusively for industrial uses should not be allowed to locate adjacent to these areas of the City, and, in particular, sensitive receptors should not be located near primary industrial areas.

Industrial Land Use Policy No. 14 states that non-industrial uses which would result in the imposition of additional operational, and/or mitigation requirements, or conditions on industrial users in a neighboring exclusively industrial areas in order to achieve compatibility are discouraged. Existing industrial land owners and users have expressed concerns over the dampening effect that locating non-industrial uses allowed in the Mixed Industrial Overlay (e.g., schools, assembly uses, daycare) may have on marketability of the adjacent properties to future industrial users. Such uses could increase the business risk for certain users currently allowed in this area, due to incompatible activities, particularly the use of hazardous materials in the manufacturing process. The Silicon Valley Manufacturing Group submitted comments on the proposed amendment, which reinforce this concern (see Public Outreach, below).

Industrial Land Use Policy No. 15 states that exclusively industrial areas should be reserved for industrial uses to the extent possible. The amendment site is located within the Edenvale Redevelopment Area, of which the northern portion where the amendment site is located is designated exclusively as Industrial Park. The immediate area does not exhibit a mix of uses. Therefore, additional non-industrial uses would compromise the integrity of area.

Economic Development Major Strategy. The proposed amendment is also inconsistent with the General Plan's Economic Development Major Strategy. The Economic Development Major Strategy calls for identifying opportunities for expanding the community's economic base, promoting a balance between Driving Industries and service/supplier firms that support them, and actively marketing San Jose as a location for a wide range of businesses. The area surrounding the

amendment site currently does not exhibit a mix of uses. Allowing the uses of the Mixed Industrial Overlay could change the character of area and may discourage future industrial development from locating here.

3. Fulfilling the City's retail needs.

As described above, the Edenvale 2 subarea already incorporates 87 acres with the Mixed Industrial Overlay designation located more appropriately adjacent to the Highway 101 at both the Silver Creek Valley Road and Silicon Valley Boulevard interchanges and closer to existing residential areas to the south and west. Existing and planned commercial services complement and support the adjacent industrial area. An additional 128 acres of Mixed Industrial Overlay-designated land is located across Highway 101 in the Edenvale 1 subarea where a variety of retail and service commercial uses exist.

4. Adequacy of major street access.

The site is located on the south side of Piercy Road, which is a designated Major Collector street on the General Plan Land Use/Transportation Diagram, terminating at Hellyer Avenue, approximately 300 feet west of the site. The nearest residential neighborhoods that would be served by the variety of non-industrial uses permitted under the Mixed Industrial Overlay designation are located approximately one mile north and one-half mile south of the site.

5. Potential to influence/encourage conversion of adjoining properties.

There is a strong likelihood that the proposed change would be a catalyst to induce future conversions of surrounding industrial properties to add the Mixed Industrial Overlay. Interest from adjacent property owners has already been seen in comment letters received regarding the amendment (see attached). If the Mixed Industrial Overlay is approved for this site it will then be considered as an area that exhibits a mix of uses, therefore making way for other properties to apply for the same designation. The Mixed Industrial Overlay definition states that the Overlay should only be applied to those areas that contain or are surrounded by an existing mix of uses, so that additional non-industrial uses would not compromise the integrity of areas reserved exclusively for industrial uses.

6. Potential negative impact to other planned commercial development areas.

This criterion addresses the impact of the proposed amendment on other planned commercial areas. Commercial uses are only some of the allowed uses in the Mixed Industrial Overlay designation. As noted above, there is a total of 235 acres of Industrial Park lands with the Mixed Industrial Overlay designation in other more appropriate portions of the Edenvale 1 and 2 subareas, containing a wide array of retail and service commercial uses to support the industrial area. Additional land with the Mixed Industrial Overlay in this area is not necessary and could draw potential users away from those desired locations.

As noted elsewhere in this report, there are serious potential impacts to surrounding industrial users from the introduction of the range of potential non-industrial uses allowed by the Mixed Industrial Overlay designation, especially schools, assembly uses, daycare, etc. The location of such "sensitive receptors" could result in imposition of additional requirements on companies using hazardous materials. The letter from the Silicon Valley Manufacturing Group (attached) states, in part:

"Some businesses, including some biotech companies such as those San Jose hopes to recruit to the Edenvale Industrial Park, maintain qualities or types of hazardous materials on their campuses, which may require extra caution. Various state and federal regulations designed to protect workers and the public's health and safety require that employers follow stringent procedures for

storage, use and transport of those materials. However, those requirements, especially the public reporting, sharply escalate – at steep cost to the companies – when “sensitive receptors” such as schools, daycare centers, or residential areas locate within potential exposure range (as determined by the type and amount of hazardous materials potentially present). In addition to the added cost, some employers express concern that if an emergency should occur, their ability and that of local safety officials to want and evacuate those in the vicinity would be much more difficult.”

The letter goes on to say that even if the risk is small, the perception of risk can pose just as much of a problem for companies considering significant relocation and investment decisions.

The issue of potential impact to biotech companies is particularly critical to the City, since the City Council/ Redevelopment Agency recently provided significant funding for the creation of a biotech business incubator program at a site approximately one half mile west of the site. The Redevelopment Agency has also committed significant resources to the marketing of the Edenvale 2 subarea as a bioscience industry cluster for larger firms, such as Stryker Endoscopy, already located in Edenvale.

7. Adequacy of transit, bicycle and pedestrian facilities.

The nearest bus route is located on the west side of Highway 101 at Blossom Hill Road and Cottle Avenue. The nearest rail transit stations are the Blossom Hill Cal Train Station and the Cottle Road Light Rail station, both located on the other side of Highway 101. The site is located approximately 600 feet from the Coyote Creek Pedestrian/Bike Trail. There are some sidewalks in the area mainly on parcels that are already developed, including the amendment site. The site is not within a reasonable walking distance of existing residential neighborhoods that would potentially be served by the range of uses allowed in the Mixed Industrial Overlay designation.

8. Incorporation of mixed use development.

The Mixed Industrial Overlay would allow for the continuation of industrial park uses, a mixture of primarily industrial with compatible commercial or public/quasi-public uses or exclusive commercial and public-quasi-public uses. As noted previously, the introduction of non-industrial uses would be inconsistent with the General Plan and Edenvale Redevelopment Plan goals to preserve this area exclusively for industrial park uses.

9. Potential environmental impacts and mitigation measures.

The proposed addition of the Mixed Industrial Overlay on the subject site was analyzed in an initial study that resulted in a Mitigated Negative Declaration. The initial study determined that the change in land use would create a less than significant impact to the following environmental factors:

- Agricultural resources
- Biological Resources
- Cultural Resources
- Hydrology and water quality
- Mineral resources
- Population and housing
- Public Services
- Recreation
- Utilities and service systems

The initial study determined that the change in land use would create a less than significant impact with mitigation measures for the following environmental factors:

- Aesthetics
- Air quality
- Geology and soils
- Hazardous materials
- Land use and planning
- Noise
- Transportation/Traffic

The Mitigated Negative Declaration was adopted on April 26, 2004. All of the mitigation measures consist of the implementation of existing General Plan policies at the zoning and development permit stages.

10. Net fiscal impact on the City of using this parcel for retail instead of the current use.

This criterion is intended to identify the potential fiscal impact on City revenue and services costs from the proposed conversion. Again, the proposed Mixed Industrial Overlay designation would allow a broader range of non-industrial uses other than just retail commercial. With the Mixed Industrial Overlay the site could produce a variety of fiscal outcomes, ranging from industrial park to retail to public quasi-public, or a combination of these. The Redevelopment Agency estimates that the fiscal impact of converting the site to non-industrial and non-commercial uses could approach \$200,000 annually in lost revenue to the City and Redevelopment Agency. A more significant concern is the potential fiscal impact of other properties either being converted or not built to their maximum industrial potential due to the infusion of non-industrial uses in the vicinity. The potential fiscal impacts could extend well beyond just those resulting from the conversion of the subject site.

Conclusion

The proposed addition of the Mixed Industrial Overlay designation to the existing Industrial Park land use designation is inconsistent with the goals and policies of the General Plan and the vision of the Edenvale Redevelopment Area to preserve the Edenvale Redevelopment Area for exclusively industrial park uses in order to continue to achieve the City's goals for employment and economic development. The proposed amendment is not consistent with the Framework, as a Guideline, for Evaluating Proposed Conversions of Employment Lands to Other Uses, which identifies the Edenvale 2 subarea as an area for preservation for future development of Driving Industries. The amendment is also inconsistent with all of the key criteria included in the Framework that need to be evaluated when considering conversion of employment lands.

The addition of the Mixed Industrial Overlay to this site in the heart of the exclusive industrial park area could induce other similar conversions and potentially threaten the viability of the City's vision to create a biotech cluster area, as well as continuing to encourage the resurgence of this key economic development area for the City. The early signs of economic resurgence are clearly visible in Edenvale: Photom Dynamics Corporation occupying 128,000 square feet of new space on Optical Court adjacent to the City's Biotech Incubator, Western Digital adding 22,000 square feet to their existing 130,000 square foot facility on Rue Ferrari, and preliminary discussions regarding other new industrial developments near the site on Piercy Road. The Edenvale Industrial area is still highly competitive and should continue to provide prime affordable industrial space for growing companies in an area with an advantageous reverse

commute, good transportation amenities, excellent housing and retail opportunities in close proximity. The proposed amendment would not further these objectives.

Finally, further erosion of industrial designated lands threatens the City's ability to provide employment opportunities for low, medium and high skilled workers, maintain a diverse economy, and provide long-term growth potential for a needed tax base.

PUBLIC OUTREACH

The property owners within the amendment site boundaries and/or property owners within a 1000-foot radius of the amendment site were sent a newsletter regarding the two community meetings that were held on March 25th and 29th, 2004 to discuss the proposed General Plan amendment. They also received a public hearing notice regarding the public hearings to be held on the subject amendment before the Planning Commission in April and City Council in June. There were no comments given during either of the two the community meetings.

Five letters commenting on the General Plan amendment proposal were received, four from adjacent property owners, and one from the Silicon Valley Manufacturing Group (see attached letters). All of the letters were in opposition to the proposed amendment. The letters from the residential property owners expressed concerns about increased traffic, noise and parking impacts, including addition of such impacts on weekends if a large church use were to be allowed in the future. Some of the letters stated that if this amendment were to be approved, they would also like their properties to be designated with the Mixed Industrial Overlay designation. A letter was also received from the Silicon Valley Manufacturing Group, in response to the specific proposed use of the amendment site for a church, as intended by the applicants. The letter acknowledges the importance of accommodating FCC's desire to expand and continue to provide services to the community. It also highlights the importance for the City to preserve large, contiguous industrial areas such as the Edenvale Industrial Park to ensure there are places for companies that are not compatible with non-industrial uses to locate. The letter states that allowing the FCC to locate in the prime industrial area "would likely deter companies with hazardous materials uses from locating in the vicinity of the church. Depending on the type and quantity of materials potentially in use, this 'avoided area' could be quite large."

In addition, the community can be kept informed about the status of amendments on the Department's website, which contains information on the General Plan process, each proposed amendment, staff reports, and hearing schedule.

RECOMMENDATION

Planning staff recommends no change to the General Plan.

GP03-02-04

